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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,618	07/17/2003	Marvin A. Motsenbocker		9659

7590 10/15/2004  
Marvin Motsenbocker  
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17 Wallace Farms Lane  
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EXAMINER

IP, SHIK LUEN PAUL

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/620,618

Applicant(s)

MOTSENBOCKER, MARVIN A.

Examiner

Paul Ip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/20/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 10/20/03 in compliances with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Drawings***

2. The drawings are objected to because the boxes shown in figures 4, 6, 8, 13a, 13b, and 13c are not labeled as required under 37 CFR 1.83(a). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-35 are rejected as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The claims are also

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rejected as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01.

In claim 1, the recitation of the "associated control circuitry" and "power supply component" are confusing, vague, and indefinite. The claim fails to define the "associated control circuitry" and "power supply component" in the claim.

Claims 9 and 10 further recite "a watercraft" and "an land vehicle", comprising an overspeed mechanism as described in claim 1. It is not clear whether claims 9 and 10 are dependant claims or independent claims. The claims fail to provide any structural support for the overspeed mechanism incorporated with the watercraft or the land vehicle.

Claim 11 recites a kit for adding overspeed capability to a vehicle comprising an overspeed mechanism as described in claim 1. It is not clear whether claim 11 is an independent claim or claim 11 is a dependent claim. The claim also fails to provide any structure support for the overspeed mechanism to be incorporated as a kit for adding overspeed capability to a vehicle.

Claim 12 recites "a microprocessor or other hardware". The recitation of the "other hardware" in the claim is confusing, vague, and indefinite. The claim fails to define the meaning of the "other hardware" in the claim.

Claim 19 recites "a control governor circuit" without the recitation of any structural relationship with the monitor elements recited in claim 12, which causes the claimed element confusing, vague, and indefinite.

Claim 20 recites "a microprocessor or other hardware" in the claims. The recitation of the "other hardware" causes the claim confusing, vague, and indefinite. The claim fails to define the meaning of the "other hardware" and its connection in the claim.

Claims 22, 23, and 25 recite a plurality of elements in the claims without any structural support or relationship to particular defines the invention.

Claims 24, 26, 28, and 29 recite the "known load" which the recitation of the "known load" is confusing, vague, and indefinite. The claims fail to define the meaning of the "known load" in the claims.

Claims 31 and 35 recite in the wherein paragraphs a plurality of functional limitations and a known load without the recitation of any structural relationship or connections causes the claim confusing, vague, and indefinite.

Claims 1-11 and claims 12-35 are directed into overspeed mechanism due to the battery charging, discharging, and depletion conditions. However, claims 1-11 and claims 12-35, are not limited the subject matter of the invention into one invention. Instead, claims 1-11 and claims 12-35 are written in such a way that it seems like there are two different embodiments of invention. Claims 1-11 and claims 12-35 are directed into a related subject matter of battery condition monitoring device for controlling the overspeed mechanism. A careful review of the claimed limitations, restriction of claims 1-11 and claims 12-35 seems improper in this case. For the reason of claims 1-11 and claims 12-35 lacks structural relationship to clearly limit the invention, the claims are considered as confusing, vague, and indefinite. Claims 1-35 fail to particularly claim and definite the invention under 35 U.S.C. 112, second paragraph.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Boothe et al (5,227,703) or Park (4,313,080).

As far as the claims are understood, the patent to Boothe et al shows in figure 1 a DC source 10, a motor 20, a current switching 40, a gating 58, and a motor regulator 26. Boothe et al show in figure 2 the overspeed 50 and motor temp 74B as the overspeed mechanism as recited in the claims.

The patent to Park shows in figure 1 a battery temperature control unit 9 and a temperature signal generator 12 connected to a power control system for controlling a motor 2 overspeed.

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7. Claims 12-35 are rejected under 35 U.S.C. 102(a) as being anticipated by Bertness (6,331,762 or 2002/0153864 or 2003/0025481 or 2003/0038637).

With respect to claims 12-35, the patents or publications to Bertness, have an earlier filing date before the invention, disclose automotive vehicle electrical system diagnostic device or monitoring device. Bertness shows in the patents or publications a battery power supply 18, a temperature sensor 37, a microprocessor 22, and a V meter 24 for monitoring the battery usage efficiency.

8. Claims 12-35 are rejected under 35 U.S.C. 102(a) as being anticipated by Suzuki (6,747,457 or 2003/0030414).

The patent or publication to Suzuki discloses battery output determination system for determining the depletion of the electric vehicle battery. Suzuki shows in figure 1 a motor 14, a high voltage battery 1, a cell controller 2, a temperature sensor 4, a battery controller 3, and a display 20. Suzuki also shows in figures 2-5 and 10 computer flow diagrams for determining the battery depletion and charging control of the vehicle.

#### ***Citation of Pertinent References***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents or publications to Shimizu et al (2004/0040817), Suzuki et al (2003/0137275), Galloway (4,405,891), Fattic et al (5,637,987), and Koga et al (5,839,800) disclose vehicle overspeed mechanism with a battery monitor system for controlling the charging rate of the battery. The patents or publications to Rogers (6,466,024), Varghese et al (6,313,608), Sol (5,315,287), Parsonage (6,037,749), Proctor et al (5,656,919), and Hara (5,598,087) disclose battery monitor systems for monitoring the charging capacity of a battery.

#### ***Customer Services Information***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Ip whose telephone number is (571)-272-1941. The examiner can normally be reached on Monday to Friday from 6:30 a.m. to 3:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin, can be reached on (571)-272-1207. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Ip  
Primary Examiner  
Art Unit 2837